

AMENDED IN SENATE AUGUST 26, 2003

AMENDED IN SENATE AUGUST 18, 2003

AMENDED IN SENATE JUNE 23, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY MARCH 17, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL**No. 356**

Introduced by Assembly Member Hancock
(Principal coauthors: Assembly Members Montanez and Mullin)
(Coauthors: Assembly Members Diaz, Firebaugh, Frommer,
Koretz, Levine, Longville, and Nunez)
(Coauthors: Senators Kuehl and Speier)

February 11, 2003

An act to amend Sections ~~52050.5, 52052, 52052.2, 52055.655,~~
~~44650, 44651, 44652, 52055.655, 52057, 60851, and 60856~~ of, to
amend, repeal, and add Sections 60603, 60604, 60605, 60605.6, 60606,
60640, 60642, 60642.5, 60643, and 60643.1 of, *and* to repeal Sections
~~52057 44653, 44654, and 60859 of, and to repeal Article 10.6~~
~~(commencing with Section 44650) of Chapter 3 of Part 25 of, the~~
Education Code, relating to education testing.

LEGISLATIVE COUNSEL'S DIGEST

AB 356, as amended, Hancock. Education: pupil testing.

(1) Existing law establishes the Public Schools Accountability Act
of 1999, which consists of the Academic Performance Index, the

Immediate Intervention/Underperforming Schools Program, and the Governor's High Achieving/Improving Schools Program. Under the existing act, schools receive *monetary and nonmonetary* awards for high achievement and improvement and sanctions for continued low performance.

This bill would delete the *monetary* rewards provisions from the act and would make conforming changes.

(2) Existing law, the Standardized Testing and Reporting (STAR) Program, requires that each school district, charter school, and county office of education administer to each of its pupils in grades 2 to 11, inclusive, a designated achievement test and a standards-based achievement test.

This bill would exclude pupils in grade 2 from this testing requirement and make conforming changes. These provisions would become operative on July 1, 2004.

(3) Existing law requires, commencing with the 2003–04 school year, that a pupil completing grade 12 successfully pass a high school exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school.

This bill would postpone the beginning of the exit examination requirement to the 2005–06 school year, would authorize school districts to decide how to use the results of the high school exit examination as part of their local graduation requirements until the 2005–06 school year, and would make conforming changes.

(4) Existing law establishes the Certificated Staff Performance Incentive Program for the purpose of awarding *monetary* performance awards to teachers and other certificated staff in underachieving schools, if the academic performance of pupils significantly improves, as specified.

This bill would ~~repeal that program~~ *delete the provisions regarding monetary awards and would specify that the awards be nonmonetary.*

(5) This bill would incorporate changes in Section 52055.655 of the Education Code that are contained in AB 96, Chapter 91 of the Statutes of 2003.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1.—Article 10.6 (commencing with Section 44650)~~
2

1 *SECTION 1. Section 44650 of the Education Code is*
2 *amended to read:*

3 44650. (a) The Certificated Staff Performance Incentive Act
4 is hereby established for the purpose of awarding *nonmonetary*,
5 one-time performance awards to teachers and other certificated
6 staff in underachieving schools, where the academic performance
7 of pupils significantly improves beyond the minimum percentage
8 growth target established pursuant to Section 52052.

9 (b) The State Board of Education shall establish criteria for
10 determining the eligibility of schools to receive the awards. ~~and~~
11 ~~shall determine the amount to be allocated to a school, based on the~~
12 ~~number of teachers and other certificated staff eligible to receive~~
13 ~~an award. The maximum award allocated to a school per full-time~~
14 ~~equivalent certificated staff shall not exceed twenty-five thousand~~
15 ~~dollars (\$25,000). The total amount of the awards allocated under~~
16 ~~this article shall not exceed the total amount appropriated for the~~
17 ~~purposes of this article.~~

18 (c) This article shall be implemented subject to the
19 appropriation of funds for the purpose of this article in the annual
20 Budget Act.

21 *SEC. 2. Section 44651 of the Education Code is amended to*
22 *read:*

23 44651. (a) Any school district or charter school that
24 maintains classes in kindergarten or any of grades 1 to 12,
25 inclusive, may apply for ~~funding~~ *an award* under this article if it
26 meets the conditions of subdivision (b). County boards of
27 education, county superintendents of schools, and state agencies
28 ~~shall not be~~ *are not* eligible to participate.

29 (b) To be eligible for ~~funding~~ *an award* under this article, a
30 school shall meet all of the following conditions:

31 (1) The school's aggregate score for ~~student~~ *pupil* performance
32 on the state Academic Performance Index established pursuant to
33 Section 52052 was below the 50th percentile relative to other
34 public schools in the state in the prior year.

35 (2) The school has met the criteria established by the board
36 pursuant to subdivision (b) of Section 44650.

37 *SEC. 3. Section 44652 of the Education Code is amended to*
38 *read:*

39 44652. The Superintendent of Public Instruction shall
40 ~~allocate funds~~ *confer awards* to school districts and charter

1 schools that have certified to the superintendent that they satisfy
2 the conditions of subdivision (b) of Section 44651, ~~based on the~~
3 ~~amount determined pursuant to subdivision (b) of Section 44650.~~
4 ~~At the time of the allocation the Superintendent of Public~~
5 ~~Instruction shall notify the exclusive representatives of the~~
6 ~~teachers and other certificated staff in each district of the~~
7 ~~availability of these funds.~~

8 *SEC. 4. Section 44653 of the Education Code is repealed.*

9 ~~44653. Upon receiving an allocation from the Superintendent~~
10 ~~of Public Instruction for the purpose of awarding awards, the~~
11 ~~governing board of the school district shall negotiate individual~~
12 ~~teacher and other certificated staff salary award amounts with the~~
13 ~~exclusive representative of the bargaining unit of the teachers and~~
14 ~~other certificated staff. In the event that the governing board and~~
15 ~~the exclusive representative of teachers and other certificated staff~~
16 ~~do not reach an agreement regarding the amount of the award or~~
17 ~~if the teachers and other certificated staff are not represented by an~~
18 ~~exclusive bargaining representative, all teachers and other~~
19 ~~certificated staff at the school shall receive a salary award amount~~
20 ~~that is equal to a percentage of their base salary that is determined~~
21 ~~by dividing the total amount awarded to a school by the sum of the~~
22 ~~annual base salaries for teachers and other certificated staff of the~~
23 ~~school.~~

24 *SEC. 5. Section 44654 of the Education Code is repealed.*

25 ~~44654. (a) Funds awarded pursuant to this article shall not~~
26 ~~become part of a district's revenue limit, and shall be identified as~~
27 ~~a separate item of expenditure on any financial reports filed by~~
28 ~~school districts with the state pursuant to any state law or~~
29 ~~regulation.~~

30 ~~(b) Salary award amounts received by teachers and other~~
31 ~~certificated staff pursuant to this article shall not be considered~~
32 ~~compensation for the purposes of calculating retirement benefits~~
33 ~~or contributions, or for any other benefit that an employee is~~
34 ~~eligible to receive where the benefit or contribution amount is~~
35 ~~calculated based on compensation.~~

36 ~~(c) It is the intent of the Legislature that funds appropriated for~~
37 ~~the purposes of this article shall be fully expended based on the~~
38 ~~criteria established in subdivision (b) of Section 44650. However,~~
39 ~~if unexpended funds are available, they shall continue to be~~

~~1 available for allocation for the intended purpose of the
2 appropriation in subsequent years.~~

~~3 of Chapter 3 of Part 25 of the Education Code is repealed.~~

~~4 SEC. 2. Section 52050.5 of the Education Code is amended
5 to read:~~

~~6 52050.5. The Legislature finds and declares all of the
7 following:~~

~~8 (a) The purpose of the California public school system is to
9 provide for the academic development of each pupil and prepare
10 each pupil, to the extent of his or her ability, to become a lifelong
11 learner, equipped to live and succeed within the economic and
12 societal complexities of the 21st century.~~

~~13 (b) It is in the interest of the people and the future of this state
14 to ensure that each child in California receives a high quality
15 education consistent with all statewide content and performance
16 standards, as adopted by the State Board of Education, and with a
17 meaningful assessment system and reporting program
18 requirements.~~

~~19 (c) Recent assessments indicate that many pupils in California
20 are not now, generally, progressing at a satisfactory rate to achieve
21 a high quality education.~~

~~22 (d) To remedy this, the state is in need of an immediate and
23 comprehensive accountability system to hold each of the state's
24 public schools accountable for the academic progress and
25 achievement of its pupils within the resources available to schools.~~

~~26 (e) Any promising and effective accountability system must be
27 based upon a constructive and collaborative process that seeks to
28 include stakeholders in the accountability process.~~

~~29 (f) Any promising and effective accountability system requires
30 the active involvement of parents and guardians, pupils, educators,
31 community leaders, school boards, and schoolsite teams.~~

~~32 (g) The statewide school accountability system must
33 encourage the active participation of parents and guardians,
34 pupils, educators, and the local community in improving pupil
35 achievement.~~

~~36 (h) The statewide accountability system must be easily
37 accessible and understandable to parents and others.~~

~~38 (i) It is also the intent of the Legislature that the comprehensive
39 and effective school accountability system primarily focus on
40 increasing academic achievement.~~

~~(j) To achieve better pupil performance, it is the intent of the Legislature that any school accountability system do all of the following:~~

~~(1) Encourage teacher preparation that allows teachers to develop the ability to inspire pupils to become lifelong learners.~~

~~(2) Encourage teacher preparation and consistent ongoing professional development that serves to develop competency in content and pedagogy and that allows teachers to effectively involve themselves in promoting school accountability.~~

~~(3) Encourage the involvement of the community and its stakeholders in the accountability system.~~

~~(4) Encourage local community involvement in providing support for education and identifying causes of pupil failure and designing programs for remediation.~~

~~(5) Approach accountability with an attitude of collaboration, encouragement, and correction.~~

~~(6) Utilize the state infrastructure to support schools, school districts, and county offices of education in their efforts to improve pupil achievement and progress.~~

~~(7) Encourage each local community to support and sustain high-quality educational programs and to build the capacity of educators and schools to succeed in educating every pupil.~~

~~(8) Encourage active involvement of parents and guardians in the development and implementation of school accountability systems.~~

~~SEC. 3. Section 52052 of the Education Code is amended to read:~~

~~52052. (a) (1) By July 1, 1999, the Superintendent of Public Instruction, with approval of the State Board of Education, shall develop an Academic Performance Index (API), to measure the performance of schools, especially the academic performance of pupils, and to demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools.~~

~~(2) For purposes of this section, a numerically significant ethnic or socioeconomically disadvantaged subgroup is a subgroup that constitutes at least 15 percent of a school's total pupil population and consists of at least 30 pupils. An ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the~~

1 subgroup does not constitute 15 percent of the total enrollment at
2 a school. For schools whose API scores are based on test scores of
3 no fewer than 11 and no more than 99 pupils, numerically
4 significant subgroups shall be defined by the Superintendent of
5 Public Instruction, with approval by the State Board of Education.

6 (3) The API shall consist of a variety of indicators currently
7 reported to the State Department of Education including, but not
8 limited to, the results of the achievement test administered
9 pursuant to Section 60640, attendance rates for pupils and
10 certificated school personnel for elementary schools, middle
11 schools, and secondary schools, and the graduation rates for pupils
12 in secondary schools.

13 (A) The pupil data collected for the API that comes from the
14 achievement test administered pursuant to Sections 60640 and
15 60644 and the high school exit examination administered pursuant
16 to Section 60851, when fully implemented, shall be disaggregated
17 by special education status, English language learners,
18 socioeconomic status, gender and ethnic group. Only the test
19 scores of pupils who were counted as part of a school district's
20 enrollment in the October California Basic Educational Data
21 System's data collection for the current fiscal year and were
22 continuously enrolled during that year may be included in the test
23 results reported in the API. Results of the achievement test and
24 other tests specified in subdivision (b) shall constitute at least 60
25 percent of the value of the index.

26 (B) Before including high school graduation rates and
27 attendance rates in the index, the Superintendent of Public
28 Instruction shall determine the extent to which the data are
29 currently reported to the state and the accuracy of the data.

30 (C) If the Superintendent of Public Instruction determines that
31 accurate data for these indicators is not available, the
32 Superintendent of Public Instruction shall report to the Governor
33 and the Legislature by September 1, 1999, and recommend
34 necessary action to implement an accurate reporting system.

35 (b) Pupil scores from the following tests, when available and
36 when found to be valid and reliable for this purpose, shall be
37 incorporated into the API:

38 (1) The assessment of the applied academic skills matrix test
39 developed pursuant to Section 60604.

~~(2) The nationally normed test designated pursuant to Section 60642.~~

~~(3) The standards-based achievement tests provided for in Section 60642.5.~~

~~(4) The high school exit examination.~~

~~(e) Based on the API, the Superintendent of Public Instruction shall develop, and the State Board of Education shall adopt, expected annual percentage growth targets for all schools based on their API baseline score from the previous year. Schools are expected to meet these growth targets through effective allocation of available resources. For schools below the statewide API performance target adopted by the State Board of Education pursuant to subdivision (d), the minimum annual percentage growth target shall be 5 percent of the difference between a school's actual API score and the statewide API performance target, or one API point, whichever is greater. Schools at or above the statewide API performance target shall have, as their growth target, maintenance of their API score above the statewide API performance target. However, the State Board of Education may set differential growth targets based on grade level of instruction and may set higher growth targets for the lowest performing schools because they have the greatest room for improvement. To meet its growth target, a school shall demonstrate that the annual growth in its API is equal to or more than its schoolwide annual percentage growth target and that all numerically significant ethnic and socioeconomically disadvantaged subgroups, as defined in subdivision (a) of Section 52052, are making comparable improvement.~~

~~(d) Upon adoption of state performance standards by the State Board of Education, the Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, a statewide API performance target that includes consideration of performance standards and represents the proficiency level required to meet the state performance target.~~

~~(e) The API shall be used for both of the following:~~

~~(1) Measuring the progress of schools selected for participation in the Immediate Intervention/Underperforming Schools Program pursuant to Section 52053.~~

~~(2) Ranking all public schools in the state for the purpose of the High Achieving/Improving Schools Program pursuant to Section 52056.~~

~~(f) (1) A comprehensive high school, middle school, or elementary school with 11 to 99 valid test scores of pupils who were enrolled in a school within the same school district in the prior fiscal year shall receive an API score with an asterisk that indicates less statistical certainty than API scores based on 100 or more test scores.~~

~~(2) A school under the jurisdiction of a county board of education or a county superintendent of schools, a community day school, or an alternative school, including continuation high schools and opportunity schools, may receive an API score if the school has 11 or more valid test scores and the school chooses to receive an API score for at least three years.~~

~~(3) A school that participates in the Immediate Intervention/Underperforming Schools Program described in Section 52053 shall receive an API score for the duration of its participation in that program, unless the Superintendent of Public Instruction determines that an API score would be an invalid measure of the school's performance for one or more of the following reasons:~~

~~(A) Irregularities in testing procedures occurred.~~

~~(B) The data used to calculate the school's API score are not representative of the pupil population at the school.~~

~~(C) Significant demographic changes in the school's pupil population render year-to-year comparisons of pupil performance invalid.~~

~~(D) The State Department of Education discovers or receives information indicating that the integrity of the school's API score has been compromised.~~

~~(g) Only schools with 100 or more test scores contributing to the API may be included in the API rankings.~~

~~(h) By July 1, 2000, the Superintendent of Public Instruction, with the approval of the State Board of Education, shall develop an alternative accountability system for schools with fewer than 100 test scores contributing to the schools' API scores, and for schools under the jurisdiction of a county board of education or a county superintendent of schools, community day schools, and~~

~~alternative schools serving high-risk pupils, including continuation high schools and opportunity schools.~~

~~SEC. 4. Section 52052.2 of the Education Code is amended to read:~~

~~52052.2. A school that receives an API score with an asterisk is eligible for participation in the Immediate Intervention/Underperforming Schools Program, as set forth in Section 52053.~~

~~SEC. 5.~~

~~SEC. 6. Section 52055.655 of the Education Code is amended to read:~~

52055.655. (a) Notwithstanding subdivision (c) of Section 52055.650, a school participating in the High Priority Schools Grant Program that meets or exceeds its API growth target shall continue to receive funding under this program in the amount specified in Sections 52054.5 and 52055.600 for one additional year of implementation.

(b) From funds made available to the State Department of Education pursuant to the act adding this section, the State Department of Education shall conduct a study on the issue of sustainability of funding for high-priority schools. The issues to be addressed in this study shall include, but are not limited to, the following:

(1) An objective rather than a comparative view of the necessity of sustaining supplemental funding over time to address the ongoing needs of high-priority pupils, and the impact of policies that only provide funding over a specified period of time.

(2) A description of the ongoing needs of high-priority schools, as identified in needs assessments submitted pursuant to paragraph (3) of subdivision (a) of Section 52055.620 and the sources of funding schools used to meet these needs.

(3) An analysis of the use of funds provided pursuant to this article and the effectiveness of that use in meeting the continued or changing needs of communities served by high-priority schools. This analysis shall include an evaluation of the growth in academic achievement realized by participating schools and the ability of those schools to sustain growth in academic achievement if funding is continued.

(4) An assessment of whether local, state, and federal resources are likely to be sufficient to sustain all or some of the academic

improvements made in high-priority schools after this state subsidy expires, taking into account prospects for the subsequent pupil population's incidence of poverty and low socioeconomic status.

~~SEC. 6. Section 52057 of the Education Code is repealed.~~

~~SEC. 7.—~~

SEC. 7. Section 52057 of the Education Code is amended to read:

52057. (a) The State Board of Education shall establish a Governor's Performance Award Program to provide ~~monetary and~~ nonmonetary awards to schools that meet or exceed API performance growth targets established pursuant to Section 52052, and demonstrate comparable improvement in academic achievement by all numerically significant ethnic and socioeconomically disadvantaged subgroups within schools. ~~Monetary awards shall be awarded only to schools whose API scores meet or exceed their API growth target as established pursuant to Section 52052 or increase by five points, whichever is greater, and in which all numerically significant subgroups' scores meet or exceed 80 percent of the school's API growth target as established pursuant to Section 52052 or increase by four points, whichever is greater.~~ For purposes of this section, an ethnic or socioeconomically disadvantaged subgroup of at least 100 pupils constitutes a numerically significant subgroup, even if the subgroup does not constitute 15 percent of the total enrollment at a school.

(b) All schools, including schools participating in the Immediate Intervention/Underperforming Schools Program are eligible to participate in the Governor's Performance Award Program. The manner and form in which the ~~monetary and~~ nonmonetary awards are given shall be established by the Superintendent of Public Instruction and approved by the State Board of Education. ~~The monetary awards shall be made available on either a per pupil or per school basis, not to exceed one hundred fifty dollars (\$150) per pupil who received a score on the assessments described in subdivision (b) of Section 60640 and subject to funds appropriated in the annual Budget Act. A school that continues to show improvement in successive years is eligible to receive annual bonuses.~~

1 (c) ~~In addition to or in substitution of monetary awards, the~~ *The*
2 Superintendent of Public Instruction may establish, upon approval
3 by the State Board of Education, nonmonetary awards that may
4 include, but are not limited to, classification as a distinguished
5 school, listing on a published public school honor roll, and public
6 commendations by the Governor and the Legislature. In addition
7 to any other criteria that are used to determine whether a school
8 shall be classified as a distinguished school, the Superintendent of
9 Public Instruction may consider the performance of a school on the
10 physical performance tests administered pursuant to Section
11 60800.

12 (d) A governing board of a school district or a county board of
13 education with one or more schools under its jurisdiction that are
14 eligible to receive an award from the Governor's Performance
15 Award Program may request on behalf of those schools that the
16 State Board of Education waive all or any part of any provision of
17 this code, or any regulation adopted by the State Board of
18 Education, controlling any of the programs listed in clause (i) of
19 subparagraph (B) of paragraph (1) of subdivision (a) of Section
20 54761 and Section 64000. The board may grant the request if the
21 waiver does not result in a decrease in the instructional time
22 otherwise required by law or regulation or an increase in state costs
23 and is determined to be consistent with subdivision (a) of Section
24 46300. The waiver shall be granted for no more than three
25 consecutive fiscal years. A governing board of a school district or
26 a county board of education may request a renewal for schools
27 under their jurisdiction that still meet the eligibility criteria.

28 (e) The waiver granted pursuant to subdivision (d) of Section
29 52057 may also provide the governing board of a school district
30 or a county board of education with maximum flexibility, on the
31 part of eligible schools within the districts, in the expenditure of
32 any new or existing categorical funds not otherwise prohibited
33 under state or federal law to enable the school to continue
34 improvement in pupil performance.

35 SEC. 8. Section 60603 of the Education Code is amended to
36 read:

37 60603. As used in this chapter:

38 (a) "Achievement test" means any standardized test that
39 measures the level of performance that a pupil has achieved in the
40 core curriculum areas.

(b) “Assessment of applied academic skills” means a form of assessment that requires pupils to demonstrate their knowledge of, and ability to apply, academic knowledge and skills in order to solve problems and communicate. It may include, but is not limited to, writing an essay response to a question, conducting an experiment, or constructing a diagram or model. An assessment of applied academic skills may not include assessments of personal behavioral standards or skills, including, but not limited to, honesty, sociability, ethics, or self-esteem.

(c) “Basic academic skills” means those skills in the subject areas of reading, spelling, written expression, and mathematics that provide the necessary foundation for mastery of more complex intellectual abilities, including the synthesis and application of knowledge.

(d) “Content standards” means the specific academic knowledge, skills, and abilities that all public schools in this state are expected to teach and all pupils expected to learn in each of the core curriculum areas, at each grade level tested.

(e) “Core curriculum areas” means the areas of reading, writing, mathematics, history-social science, and science.

(f) “Direct writing assessment” means an assessment of applied academic skills that requires pupils to use written expression to demonstrate writing skills, including writing mechanics, grammar, punctuation, and spelling.

(g) “End of course exam” means a comprehensive and challenging assessment of pupil achievement in a particular subject area or discipline such as the Golden State Exams.

(h) “Performance standards” are standards that define various levels of competence at each grade level in each of the curriculum areas for which content standards are established. Performance standards gauge the degree to which a pupil has met the content standards and the degree to which a school or school district has met the content standards.

(i) “Publisher” means a commercial publisher or any other public or private entity, other than the State Department of Education, which is able to provide tests or test items that meet the requirements of this chapter.

(j) “Statewide pupil assessment program” means the systematic achievement testing of pupils in grades 2 to 11, inclusive, pursuant to the Standardized Testing and Reporting

1 Program under Article 4 (commencing with Section 60640) and
2 the assessment of basic academic skills and applied academic
3 skills, administered to pupils in grade levels specified in
4 subdivision (c) of Section 60605, required by this chapter in all
5 schools within each school district by means of tests designated by
6 the State Board of Education.

7 (k) This section shall become inoperative on July 1, 2004, and,
8 as of January 1, 2005, is repealed, unless a later enacted statute,
9 that becomes operative on or before January 1, 2005, deletes or
10 extends the dates on which it becomes inoperative and is repealed.

11 ~~SEC. 8.—~~

12 *SEC. 9.* Section 60603 is added to the Education Code, to
13 read:

14 60603. As used in this chapter:

15 (a) “Achievement test” means any standardized test that
16 measures the level of performance that a pupil has achieved in the
17 core curriculum areas.

18 (b) “Assessment of applied academic skills” means a form of
19 assessment that requires pupils to demonstrate their knowledge of,
20 and ability to apply, academic knowledge and skills in order to
21 solve problems and communicate. It may include, but is not
22 limited to, writing an essay response to a question, conducting an
23 experiment, or constructing a diagram or model. An assessment of
24 applied academic skills may not include assessments of personal
25 behavioral standards or skills, including, but not limited to,
26 honesty, sociability, ethics, or self-esteem.

27 (c) “Basic academic skills” means those skills in the subject
28 areas of reading, spelling, written expression, and mathematics
29 that provide the necessary foundation for mastery of more
30 complex intellectual abilities, including the synthesis and
31 application of knowledge.

32 (d) “Content standards” means the specific academic
33 knowledge, skills, and abilities that all public schools in this state
34 are expected to teach and all pupils are expected to learn in each
35 of the core curriculum areas, at each grade level tested.

36 (e) “Core curriculum areas” means the areas of reading,
37 writing, mathematics, history-social science, and science.

38 (f) “Direct writing assessment” means an assessment of
39 applied academic skills that requires pupils to use written

1 expression to demonstrate writing skills, including writing
2 mechanics, grammar, punctuation, and spelling.

3 (g) “End of course exam” means a comprehensive and
4 challenging assessment of pupil achievement in a particular
5 subject area or discipline, such as the Golden State Exams.

6 (h) “Performance standards” are standards that define various
7 levels of competence at each grade level in each of the curriculum
8 areas for which content standards are established. Performance
9 standards gauge the degree to which a pupil has met the content
10 standards and the degree to which a school or school district has
11 met the content standards.

12 (i) “Publisher” means a commercial publisher or any other
13 public or private entity, other than the State Department of
14 Education, which is able to provide tests or test items that meet the
15 requirements of this chapter.

16 (j) “Statewide pupil assessment program” means the
17 systematic achievement testing of pupils in grades 3 to 11,
18 inclusive, pursuant to the Standardized Testing and Reporting
19 Program under Article 4 (commencing with Section 60640) and
20 the assessment of basic academic skills and applied academic
21 skills, administered to pupils in grade levels specified in
22 subdivision (c) of Section 60605, required by this chapter in all
23 schools within each school district by means of tests designated by
24 the State Board of Education.

25 (k) This section shall become operative on July 1, 2004.

26 ~~SEC. 9.—~~

27 *SEC. 10.* Section 60604 of the Education Code is amended to
28 read:

29 60604. (a) The Superintendent of Public Instruction shall
30 design and implement, consistent with the timetable and plan
31 required pursuant to subdivision (b), a statewide pupil assessment
32 program consistent with the testing requirements of this article in
33 accordance with the objectives set forth in Section 60602. That
34 program shall include all of the following:

35 (1) A plan for producing valid, reliable, and comparable
36 individual pupil scores in grades 2 to 11, inclusive, and a
37 comprehensive analysis of these scores based on the results of the
38 achievement test designated by the State Board of Education that
39 assesses a broad range of basic academic skills pursuant to the

1 Standardized Testing and Reporting (STAR) Program established
2 by Article 4 (commencing with Section 60640).

3 (2) A method of working with publishers to ensure valid,
4 reliable, and comparable individual, grade-level, school-level,
5 district-level, county-level, and statewide scores in grades 2 to 11,
6 inclusive, that is based on the achievement test designated
7 pursuant to subdivision (b) of Section 60605.

8 (3) Statewide academically rigorous content and performance
9 standards that reflect the knowledge and skills that pupils will need
10 in order to succeed in the information-based, global economy of
11 the 21st century. These skills shall not include personal behavioral
12 standards or skills, including, but not limited to, honesty,
13 sociability, ethics, or self-esteem.

14 (4) A statewide system that provides the results of testing in a
15 manner that reflects the degree to which pupils are achieving the
16 academically rigorous content and performance standards adopted
17 by the State Board of Education.

18 (5) The alignment of assessment with the statewide
19 academically rigorous content and performance standards adopted
20 by the State Board of Education.

21 (6) The active, ongoing involvement of parents, classroom
22 teachers, administrators, other educators, governing board
23 members of school districts, and the public in all phases of the
24 design and implementation of the statewide pupil assessment
25 program.

26 (7) The development of a contract or contracts with a publisher
27 or publishers, after the approval of statewide academically
28 rigorous content standards by the State Board of Education, for the
29 development of performance standards and assessments of applied
30 academic skills designed to test pupils' knowledge of academic
31 skills and abilities to apply that knowledge and those skills in order
32 to solve problems and communicate.

33 (b) The superintendent shall develop and annually update for
34 the Legislature a five-year cost projection, implementation plan,
35 and timetable for implementing the program described in
36 subdivision (a). The annual update shall be submitted on or before
37 March 1 of each year to the chairperson of the fiscal subcommittee
38 considering budget appropriations in each house. The update shall
39 explain any significant variations from the five-year cost
40 projection for the current year budget and the proposed budget.

(c) The Superintendent of Public Instruction shall provide each school district with guidelines for professional development that are designed to assist classroom teachers to use the results of the assessments administered pursuant to this chapter to modify instruction for the purpose of improving pupil learning. These guidelines shall be developed in consultation with classroom teachers and approved by the State Board of Education before dissemination.

(d) The Superintendent of Public Instruction and the State Board of Education shall consider comments and recommendations from school districts and the public in the development, adoption, and approval of assessment instruments.

(e) The results of the achievement test administered pursuant to Article 4 (commencing with Section 60640) shall be returned to the school district within the period of time specified by the State Board of Education.

(f) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 10.~~

SEC. 11. Section 60604 is added to the Education Code, to read:

60604. (a) The Superintendent of Public Instruction shall design and implement, consistent with the timetable and plan required pursuant to subdivision (b), a statewide pupil assessment program consistent with the testing requirements of this article in accordance with the objectives set forth in Section 60602. That program shall include all of the following:

(1) A plan for producing valid, reliable, and comparable individual pupil scores in grades 3 to 11, inclusive, and a comprehensive analysis of these scores based on the results of the achievement test designated by the State Board of Education that assesses a broad range of basic academic skills pursuant to the Standardized Testing and Reporting Program established by Article 4 (commencing with Section 60640).

(2) A method of working with publishers to ensure valid, reliable, and comparable individual, grade-level, school-level, district-level, county-level, and statewide scores in grades 3 to 11,

1 inclusive, that is based on the achievement test designated
2 pursuant to subdivision (b) of Section 60605.

3 (3) Statewide academically rigorous content and performance
4 standards that reflect the knowledge and skills that pupils will need
5 in order to succeed in the information-based, global economy of
6 the 21st century. These skills may not include personal behavioral
7 standards or skills, including, but not limited to, honesty,
8 sociability, ethics, or self-esteem.

9 (4) A statewide system that provides the results of testing in a
10 manner that reflects the degree to which pupils are achieving the
11 academically rigorous content and performance standards adopted
12 by the State Board of Education.

13 (5) The alignment of assessment with the statewide
14 academically rigorous content and performance standards adopted
15 by the State Board of Education.

16 (6) The active, ongoing involvement of parents, classroom
17 teachers, administrators, other educators, members of the
18 governing board of school districts, and the public in all phases of
19 the design and implementation of the statewide pupil assessment
20 program.

21 (7) The development of a contract or contracts with a publisher
22 or publishers, after the approval of statewide academically
23 rigorous content standards by the State Board of Education, for the
24 development of performance standards and assessments of applied
25 academic skills designed to test pupils' knowledge of academic
26 skills and abilities to apply that knowledge and those skills in order
27 to solve problems and communicate.

28 (b) The superintendent shall develop and annually update for
29 the Legislature a five-year cost projection, implementation plan,
30 and timetable for implementing the program described in
31 subdivision (a). The annual update shall be submitted on or before
32 March 1 of each year to the chairperson of the fiscal subcommittee
33 considering budget appropriations in each house. The update shall
34 explain any significant variations from the five-year cost
35 projection for the current year budget and the proposed budget.

36 (c) The Superintendent of Public Instruction shall provide each
37 school district with guidelines for professional development that
38 are designed to assist classroom teachers to use the results of the
39 assessments administered pursuant to this chapter to modify
40 instruction for the purpose of improving pupil learning. These

1 guidelines shall be developed in consultation with classroom
2 teachers and approved by the State Board of Education before
3 dissemination.

4 (d) The Superintendent of Public Instruction and the State
5 Board of Education shall consider comments and
6 recommendations from school districts and the public in the
7 development, adoption, and approval of assessment instruments.

8 (e) The results of the achievement test administered pursuant
9 to Article 4 (commencing with Section 60640) shall be returned
10 to the school district within the period of time specified by the
11 State Board of Education.

12 (f) This section shall become operative on July 1, 2004.

13 ~~SEC. 11.~~

14 *SEC. 12.* Section 60605 of the Education Code is amended to
15 read:

16 60605. (a) (1) (A) Not later than January 1, 1998, the State
17 Board of Education shall adopt statewide academically rigorous
18 content standards, pursuant to the recommendations of the
19 Commission for the Establishment of Academic Content and
20 Performance Standards, in the core curriculum areas of reading,
21 writing, and mathematics to serve as the basis for assessing the
22 academic achievement of individual pupils and of schools, school
23 districts, and the California education system. Not later than
24 November 1, 1998, the State Board of Education shall adopt these
25 standards in the core curriculum areas of history/social science and
26 science.

27 (B) The State Board of Education shall adopt statewide
28 performance standards in the core curriculum areas of reading,
29 writing, mathematics, history/social science, and science based on
30 the recommendations made by the Superintendent of Public
31 Instruction and a contractor or contractors.

32 (C) The State Board of Education shall require the contractor
33 or contractors to submit performance standards to the
34 Superintendent of Public Instruction and the board not later than
35 a specified date that allows sufficient opportunity for the
36 Superintendent of Public Instruction to make a recommendation
37 to the board and for the board to conduct regional hearings prior
38 to the adoption of the performance standards.

39 (2) (A) The State Board of Education may modify any
40 proposed content standards or performance standards prior to

1 adoption and may adopt content and performance standards in
2 individual core curriculum areas as those standards are submitted
3 to the board. The performance standards shall be established
4 against specific grade level benchmarks of academic achievement
5 for each subject area tested and shall be based on the knowledge
6 and skills that pupils will need in order to succeed in the
7 information-based, global economy of the 21st century. These
8 skills shall not include personal behavioral standards or skills,
9 including, but not limited to, honesty, sociability, ethics, or
10 self-esteem. The standards adopted pursuant to this section shall
11 be for the purpose of guiding state decisions regarding the
12 development, adoption, and approval of assessment instruments
13 pursuant to this chapter and shall not be construed to mandate any
14 actions or activities by school districts.

15 (B) Because these standards are models, the adoption of these
16 standards is not subject to the Administrative Procedure Act. This
17 subparagraph is declaratory of existing law.

18 (3) Before adopting academic content and performance
19 standards, the board shall hold regional hearings for the purpose
20 of giving parents and other members of the public the opportunity
21 to comment on the proposed standards.

22 (b) (1) The State Board of Education shall require the State
23 Department of Education to notify publishers of the opportunity
24 to submit, for consideration by the State Board of Education
25 pursuant to Section 60642, tests of achievement that include all of
26 the basic academic skills identified in subdivision (c) of Section
27 60603 in grades 2 to 8, inclusive, and the core curriculum areas of
28 English and language arts, mathematics, and science in grades 9
29 to 11, inclusive.

30 (2) The Superintendent of Public Instruction shall recommend
31 to the State Board of Education which achievement test to adopt
32 pursuant to subdivision (b) of Section 60642.

33 (c) (1) The State Board of Education shall ensure that the
34 statewide assessment system adopted pursuant to this chapter
35 yields valid, reliable individual pupil scores and, where
36 applicable, aggregate school scores, school district scores, and
37 statewide scores of pupils and assesses basic academic skills and
38 content standards, including the use of a direct writing assessment
39 or other applied academic skills if deemed valid and reliable and
40 if resources are made available for their use.



(2) This subdivision does not prevent the State Board of Education from developing or adopting an assessment instrument that also contains assessments of basic academic skills.

(d) To the extent feasible and as otherwise required, the State Board of Education shall ensure that assessments developed, or contracted for pursuant to Section 60642.5, by the state are aligned with the statewide content and performance standards adopted pursuant to subdivision (a). The State Department of Education, with the approval of the State Board of Education, shall periodically contract for a review of the achievement test for conformance with these standards.

(e) After adopting statewide content and performance standards, the State Board of Education shall review the existing curriculum frameworks for conformity with the new statewide standards and shall modify the curriculum frameworks where appropriate to bring them into alignment with the standards.

(f) The State Board of Education shall adopt regulations for the conduct and administration of the testing and assessment program.

(g) The State Board of Education shall adopt a regulation for minimum security procedures that test and assessment publishers and school districts must follow to ensure the security and integrity of test and assessment questions and materials.

(h) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 12.—~~

SEC. 13. Section 60605 is added to the Education Code, to read:

60605. (a) (1) (A) Not later than January 1, 1998, the State Board of Education shall adopt statewide academically rigorous content standards, pursuant to the recommendations of the Commission for the Establishment of Academic Content and Performance Standards, in the core curriculum areas of reading, writing, and mathematics to serve as the basis for assessing the academic achievement of individual pupils and of schools, school districts, and the California education system. Not later than November 1, 1998, the State Board of Education shall adopt these standards in the core curriculum areas of history/social science and science.

1 (B) The State Board of Education shall adopt statewide
2 performance standards in the core curriculum areas of reading,
3 writing, mathematics, history/social science, and science based on
4 the recommendations made by the Superintendent of Public
5 Instruction and a contractor or contractors.

6 (C) The State Board of Education shall require the contractor
7 or contractors to submit performance standards to the
8 Superintendent of Public Instruction and the board not later than
9 a specified date that allows sufficient opportunity for the
10 Superintendent of Public Instruction to make a recommendation
11 to the board and for the board to conduct regional hearings prior
12 to the adoption of the performance standards.

13 (2) (A) The State Board of Education may modify any
14 proposed content standards or performance standards prior to
15 adoption and may adopt content and performance standards in
16 individual core curriculum areas as those standards are submitted
17 to the board. The performance standards shall be established
18 against specific grade level benchmarks of academic achievement
19 for each subject area tested and shall be based on the knowledge
20 and skills that pupils will need in order to succeed in the
21 information-based, global economy of the 21st century. These
22 skills shall not include personal behavioral standards or skills,
23 including, but not limited to, honesty, sociability, ethics, or
24 self-esteem. The standards adopted pursuant to this section shall
25 be for the purpose of guiding state decisions regarding the
26 development, adoption, and approval of assessment instruments
27 pursuant to this chapter and shall not be construed to mandate any
28 actions or activities by school districts.

29 (B) Because these standards are models, the adoption of these
30 standards is not subject to the Administrative Procedure Act. This
31 subparagraph is declaratory of existing law.

32 (3) Before adopting academic content and performance
33 standards, the board shall hold regional hearings for the purpose
34 of giving parents and other members of the public the opportunity
35 to comment on the proposed standards.

36 (b) (1) The State Board of Education shall require the
37 department to notify publishers of the opportunity to submit, for
38 consideration by the State Board of Education pursuant to Section
39 60642, tests of achievement that include all of the basic academic
40 skills identified in subdivision (c) of Section 60603 in grades 3 to

1 8, inclusive, and the core curriculum areas of English and language
2 arts, mathematics, and science in grades 9 to 11, inclusive.

3 (2) The Superintendent of Public Instruction shall recommend
4 to the State Board of Education which achievement test to adopt
5 pursuant to subdivision (b) of Section 60642.

6 (c) (1) The State Board of Education shall ensure that the
7 statewide assessment system adopted pursuant to this chapter
8 yields valid, reliable individual pupil scores and, where
9 applicable, aggregate school scores, school district scores, and
10 statewide scores of pupils and assesses basic academic skills and
11 content standards, including the use of a direct writing assessment
12 or other applied academic skills if deemed valid and reliable and
13 if resources are made available for their use.

14 (2) This subdivision does not prevent the State Board of
15 Education from developing or adopting an assessment instrument
16 that also contains assessments of basic academic skills.

17 (d) To the extent feasible and as otherwise required, the State
18 Board of Education shall ensure that assessments developed, or
19 contracted for pursuant to Section 60642.5, by the state are aligned
20 with the statewide content and performance standards adopted
21 pursuant to subdivision (a). The State Department of Education,
22 with the approval of the State Board of Education, shall
23 periodically contract for a review of the achievement test for
24 conformance with these standards.

25 (e) After adopting statewide content and performance
26 standards, the State Board of Education shall review the existing
27 curriculum frameworks for conformity with the new statewide
28 standards and shall modify the curriculum frameworks where
29 appropriate to bring them into alignment with the standards.

30 (f) The State Board of Education shall adopt regulations for the
31 conduct and administration of the testing and assessment program.

32 (g) The State Board of Education shall adopt a regulation for
33 minimum security procedures that test and assessment publishers
34 and school districts must follow to ensure the security and integrity
35 of test and assessment questions and materials.

36 (h) This section shall become operative on July 1, 2004.

37 ~~SEC. 13.~~—

38 *SEC. 14.* Section 60605.6 of the Education Code is amended
39 to read:

1 60605.6. (a) Subject to the availability of funds in the annual
2 Budget Act for this purpose, the Superintendent of Public
3 Instruction, upon approval of the State Board of Education, shall
4 contract for the development and distribution of workbooks, as
5 follows:

6 (1) One workbook to be distributed to all pupils in the 10th
7 grade. This workbook shall contain information on the proficiency
8 levels that must be demonstrated by pupils on the high school exit
9 examination described in Chapter 9 (commencing with Section
10 60850). The workbook also shall contain sample questions, with
11 explanations describing how these sample questions test pupil
12 knowledge of the language arts and mathematics content standards
13 adopted by the State Board of Education pursuant to Section
14 60605.

15 (2) Separate workbooks for each of grades 2 to 11, inclusive.
16 Each pupil in grades 2 to 11, inclusive, who is required to take the
17 achievement tests described in Section 60642 or Section 60642.5
18 shall receive a copy of the workbook designed for the same grade
19 level in which the pupil is enrolled. These workbooks shall contain
20 material to assist pupils and their parents with standards-based
21 learning, including the grade appropriate academic content
22 standards adopted by the State Board of Education pursuant to
23 Section 60605 and sample questions that require knowledge of
24 these standards to answer. The workbooks also shall describe how
25 the sample questions test knowledge of the State Board of
26 Education adopted academic content standards.

27 (b) This section shall become inoperative on July 1, 2004, and,
28 as of January 1, 2005, is repealed, unless a later enacted statute,
29 that becomes operative on or before January 1, 2005, deletes or
30 extends the dates on which it becomes inoperative and is repealed.

31 ~~SEC. 14.~~—

32 *SEC. 15.* Section 60605.6 is added to the Education Code, to
33 read:

34 60605.6. (a) Subject to the availability of funds in the annual
35 Budget Act for this purpose, the Superintendent of Public
36 Instruction, upon approval of the State Board of Education, shall
37 contract for the development and distribution of workbooks, as
38 follows:

39 (1) One workbook to be distributed to all pupils in the 10th
40 grade. This workbook shall contain information on the proficiency

levels that must be demonstrated by pupils on the high school exit examination described in Chapter 9 (commencing with Section 60850). The workbook also shall contain sample questions, with explanations describing how these sample questions test pupil knowledge of the language arts and mathematics content standards adopted by the State Board of Education pursuant to Section 60605.

(2) Separate workbooks for each of grades 3 to 11, inclusive. Each pupil in grades 3 to 11, inclusive, who is required to take the achievement tests described in Section 60642 or Section 60642.5 shall receive a copy of the workbook designed for the same grade level in which the pupil is enrolled. These workbooks shall contain material to assist pupils and their parents with standards-based learning, including the grade appropriate academic content standards adopted by the State Board of Education pursuant to Section 60605 and sample questions that require knowledge of these standards to answer. The workbooks also shall describe how the sample questions test knowledge of the State Board of Education adopted academic content standards.

(b) This section shall become operative on July 1, 2004.

~~SEC. 15.—~~

SEC. 16. Section 60606 of the Education Code is amended to read:

60606. (a) After designating a test of academic achievement for use in grades 2 to 11, inclusive, pursuant to Section 60642, or adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the State Board of Education shall submit each of those two instruments when designated or adopted to the Statewide Pupil Assessment Review Panel, which is hereby established, for review by the panel.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Superintendent of Public Instruction. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the two instruments specified in subdivision (a) in order to ensure that the content of the instruments complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the content of the publisher's test or assessment, as the case may be, complies with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the State Board of Education within 10 days of its receipt of each instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

(f) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 16.~~

SEC. 17. Section 60606 is added to the Education Code, to read:

60606. (a) After designating a test of academic achievement for use in grades 3 to 11, inclusive, pursuant to Section 60642, or adopting an assessment of applied academic skills for use in grades 4, 5, 8, and 10 pursuant to Section 60605, the State Board of Education shall submit each of those two instruments when designated or adopted to the Statewide Pupil Assessment Review Panel, which is hereby established, for review by the panel.

(b) The panel shall consist of six members. Three members shall be appointed by the Governor, one member shall be appointed by the Senate Committee on Rules, one member shall be appointed by the Speaker of the Assembly, and one member shall be appointed by the Superintendent of Public Instruction. A majority of the panel shall consist of parents whose children attend public schools in the state in kindergarten and grades 1 to 12, inclusive.

(c) Panel members shall serve two-year terms, without compensation. No panel member shall serve more than two consecutive terms.

(d) The panel shall review the two instruments specified in subdivision (a) in order to ensure that the content of the instruments complies with the requirements of Section 60614. Notwithstanding any other provision of law, the panel may meet in closed session with a publisher for the purpose of addressing questions and clarifying issues that relate to ensuring that the content of the publisher's test or assessment, as the case may be, complies with the requirements of Section 60614.

(e) The panel shall report its findings and recommendations to the State Board of Education within 10 days of its receipt of each instrument. If the panel fails to report within the required 10 days, the test or assessment shall be deemed acceptable to the panel.

(f) This section shall become operative on July 1, 2004.

~~SEC. 17.~~

SEC. 18. Section 60640 of the Education Code is amended to read:

60640. (a) There is hereby established the Standardized Testing and Reporting Program, to be known as the STAR Program.

(b) Commencing in the 1997–98 fiscal year and each fiscal year thereafter, and from the funds available for that purpose, each school district, charter school, and county office of education shall administer to each of its pupils in grades 2 to 11, inclusive, the achievement test designated by the State Board of Education pursuant to Section 60642 and the standards-based achievement test provided for in Section 60642.5. The State Board of Education shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year, except as necessary to ensure test security and to meet the final filing date.

(c) The publisher and the school district shall provide two makeup days for the testing of previously absent pupils within the testing period established by the State Board of Education in subdivision (b).

(d) The governing board of the school district may administer achievement tests in kindergarten and grade 1 or 12, or both, as it deems appropriate.

(e) Pursuant to paragraph (17) of subsection (a) of Section 1412 of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing

1 requirement of subdivision (b) with appropriate accommodations
2 in administration, where necessary, and those individuals with
3 exceptional needs who are unable to participate in the testing, even
4 with accommodations, will be given an alternate assessment.

5 (f) At the school district's option, pupils of limited English
6 proficiency who are enrolled in any of grades 2 to 11, inclusive,
7 may take a second achievement test in their primary language.
8 Primary language tests administered pursuant to this subdivision
9 and subdivision (g) shall be subject to the requirements of
10 subdivision (a) of Section 60641. These primary language tests
11 shall produce individual pupil scores that are valid and reliable.
12 Notwithstanding any other provision of law, the State Board of
13 Education shall designate for use, as part of this program, a single
14 primary language test in each language for which a test is available
15 for grades 2 to 11, inclusive, no later than November 14, 1998,
16 pursuant to the process used for designation of the assessment
17 chosen in the 1997–98 fiscal year, as specified in Sections 60642
18 and 60643, as applicable.

19 (g) Pupils of limited English proficiency who are enrolled in
20 any of grades 2 to 11, inclusive, shall be required to take a test in
21 their primary language if a test is available, if fewer than 12 months
22 have elapsed after their initial enrollment in any public school in
23 the state.

24 (h) (1) The Superintendent of Public Instruction shall
25 apportion funds to school districts to enable school districts to
26 meet the requirements of subdivisions (b), (f), and (g).

27 (2) The State Board of Education shall annually establish the
28 amount of funding to be apportioned to school districts for each
29 test administered and shall annually establish the amount that each
30 publisher shall be paid for each test administered under the
31 agreements required pursuant to Section 60643. The amounts to
32 be paid to the publishers shall be determined by considering the
33 cost estimates submitted by each publisher each September and the
34 amount included in the Budget Act and by making allowance for
35 the estimated costs to school districts for compliance with the
36 requirements of subdivisions (b), (f), and (g).

37 (3) An adjustment to the amount of funding to be apportioned
38 per test may not be valid without the approval of the Director of
39 Finance. A request for approval of an adjustment to the amount of
40 funding to be apportioned per test shall be submitted in writing to

the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the State Department of Education and the contractor, shall be deemed to be "General Fund revenues appropriated for school districts," as defined in subdivision (c) of Section 41202, for the applicable fiscal year, and included within the "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIII B," as defined in subdivision (e) of Section 41202, for that fiscal year.

(j) As a condition to receiving an apportionment pursuant to subdivision (h), a school district shall report to the superintendent all of the following:

(1) The number of pupils enrolled in the school district in grades 2 to 11, inclusive.

(2) The number of pupils to whom an achievement test was administered in grades 2 to 11, inclusive, in the school district.

(3) The number of pupils in paragraph (1) who were exempted from the test at the request of their parents or guardians.

(k) This section shall become inoperative on July 1, 2004, and, as of January 1, 2005, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2005, deletes or extends the dates on which it becomes inoperative and is repealed.

~~SEC. 18.~~

SEC. 19. Section 60640 is added to the Education Code, to read:

1 60640. (a) There is hereby established the Standardized
2 Testing and Reporting Program, to be known as the STAR
3 Program.

4 (b) Commencing in the 1997–98 fiscal year and each fiscal year
5 thereafter, and from the funds available for that purpose, each
6 school district, charter school, and county office of education shall
7 administer to each of its pupils in grades 3 to 11, inclusive, the
8 achievement test designated by the State Board of Education
9 pursuant to Section 60642 and the standards-based achievement
10 test provided for in Section 60642.5. The State Board of Education
11 shall establish a testing period to provide that all schools
12 administer these tests to pupils at approximately the same time
13 during the instructional year, except as necessary to ensure test
14 security and to meet the final filing date.

15 (c) The publisher and the school district shall provide two
16 makeup days for the testing of previously absent pupils within the
17 testing period established by the State Board of Education in
18 subdivision (b).

19 (d) The governing board of the school district may administer
20 achievement tests in kindergarten and grade 1 or 12, or both, as it
21 deems appropriate.

22 (e) Pursuant to paragraph (17) of subsection (a) of Section
23 1412 of Title 20 of the United States Code, individuals with
24 exceptional needs, as defined in Section 56026, shall be included
25 in the testing requirement of subdivision (b) with appropriate
26 accommodations in administration, where necessary, and those
27 individuals with exceptional needs who are unable to participate
28 in the testing, even with accommodations, will be given an
29 alternate assessment.

30 (f) At the school district's option, pupils of limited English
31 proficiency who are enrolled in any of grades 3 to 11, inclusive,
32 may take a second achievement test in their primary language.
33 Primary language tests administered pursuant to this subdivision
34 and subdivision (g) shall be subject to the requirements of
35 subdivision (a) of Section 60641. These primary language tests
36 shall produce individual pupil scores that are valid and reliable.
37 Notwithstanding any other provision of law, the State Board of
38 Education shall designate for use, as part of this program, a single
39 primary language test in each language for which a test is available
40 for grades 3 to 11, inclusive, no later than November 14, 1998,

pursuant to the process used for designation of the assessment chosen in the 1997–98 fiscal year, as specified in Sections 60642 and 60643, as applicable.

(g) Pupils of limited English proficiency who are enrolled in any of grades 3 to 11, inclusive, shall be required to take a test in their primary language if a test is available, if fewer than 12 months have elapsed after their initial enrollment in any public school in the state.

(h) (1) The Superintendent of Public Instruction shall apportion funds to school districts to enable school districts to meet the requirements of subdivisions (b), (f), and (g).

(2) The State Board of Education shall annually establish the amount of funding to be apportioned to school districts for each test administered and shall annually establish the amount that each publisher shall be paid for each test administered under the agreements required pursuant to Section 60643. The amounts to be paid to the publishers shall be determined by considering the cost estimates submitted by each publisher each September and the amount included in the Budget Act and by making allowance for the estimated costs to school districts for compliance with the requirements of subdivisions (b), (f), and (g).

(3) An adjustment to the amount of funding to be apportioned per test may not be valid without the approval of the Director of Finance. A request for approval of an adjustment to the amount of funding to be apportioned per test shall be submitted in writing to the Director of Finance and the chairpersons of the fiscal committees of both houses of the Legislature with accompanying material justifying the proposed adjustment. The Director of Finance is authorized to approve only those adjustments related to activities required by statute. The Director of Finance shall approve or disapprove the amount within 30 days of receipt of the request and shall notify the chairpersons of the fiscal committees of both houses of the Legislature of the decision.

(i) For the purposes of making the computations required by Section 8 of Article XVI of the California Constitution, the appropriation for the apportionments made pursuant to paragraph (1) of subdivision (h), and the payments made to the publishers under the contracts required pursuant to Section 60643 or subparagraph (C) of paragraph (1) of subdivision (a) of Section 60605 between the State Department of Education and the

1 contractor, shall be deemed to be “General Fund revenues
2 appropriated for school districts,” as defined in subdivision (c) of
3 Section 41202, for the applicable fiscal year, and included within
4 the “total allocations to school districts and community college
5 districts from General Fund proceeds of taxes appropriated
6 pursuant to Article XIII B,” as defined in subdivision (e) of
7 Section 41202, for that fiscal year.

8 (j) As a condition to receiving an apportionment pursuant to
9 subdivision (h), a school district shall report to the superintendent
10 all of the following:

11 (1) The number of pupils enrolled in the school district in
12 grades 3 to 11, inclusive.

13 (2) The number of pupils to whom an achievement test was
14 administered in grades 3 to 11, inclusive, in the school district.

15 (3) The number of pupils in paragraph (1) who were exempted
16 from the test at the request of their parents or guardians.

17 (k) This section shall become operative on July 1, 2004.

18 ~~SEC. 19.~~

19 *SEC. 20.* Section 60642 of the Education Code is amended to
20 read:

21 60642. (a) The Superintendent of Public Instruction and the
22 State Board of Education may consider any evaluations of
23 independent experts who have not been employed by a test
24 publisher in the preceding 12 months regarding the suitability of
25 the achievement tests submitted by publishers as required by
26 subdivision (b) of Section 60605 for use as part of the STAR
27 Program established by this article.

28 (b) Based upon a review of the achievement tests submitted and
29 the recommendation made by the Superintendent of Public
30 Instruction pursuant to subdivision (b) of Section 60605, the State
31 Board of Education, in its sole discretion, based on the
32 considerations set forth in Section 60644, shall designate for use
33 as part of the STAR Program a single test in grades 2 to 11,
34 inclusive.

35 (c) The State Board of Education shall ensure that the
36 achievement test designated pursuant to subdivision (b) contains
37 the subject areas specified in subdivision (c) of Section 60603 for
38 grades 2 to 8, inclusive, and the core curriculum areas of English
39 and language arts, mathematics, and science for grades 9 to 11,
40 inclusive.

1 (d) The State Board of Education is hereby authorized to
2 designate the achievement test to be administered pursuant to this
3 article for more than one academic year subject to the availability
4 of funds.

5 (e) The board shall minimize, to the extent it deems feasible,
6 the amount of testing time required by the assessment in
7 subdivision (b) for those content areas for which there also exists
8 a standards-based examination as provided for pursuant to Section
9 60642.5.

10 (f) This section shall become inoperative on July 1, 2004, and,
11 as of January 1, 2005, is repealed, unless a later enacted statute,
12 that becomes operative on or before January 1, 2005, deletes or
13 extends the dates on which it becomes inoperative and is repealed.

14 ~~SEC. 20.—~~

15 *SEC. 21.* Section 60642 is added to the Education Code, to
16 read:

17 60642. (a) The Superintendent of Public Instruction and the
18 State Board of Education may consider any evaluations of
19 independent experts who have not been employed by a test
20 publisher in the preceding 12 months regarding the suitability of
21 the achievement tests submitted by publishers as required by
22 subdivision (b) of Section 60605 for use as part of the STAR
23 Program established by this article.

24 (b) Based upon a review of the achievement tests submitted and
25 the recommendation made by the Superintendent of Public
26 Instruction pursuant to subdivision (b) of Section 60605, the State
27 Board of Education, in its sole discretion, based on the
28 considerations set forth in Section 60644, shall designate for use
29 as part of the STAR Program a single test in grades 3 to 11,
30 inclusive.

31 (c) The State Board of Education shall ensure that the
32 achievement test designated pursuant to subdivision (b) contains
33 the subject areas specified in subdivision (c) of Section 60603 for
34 grades 3 to 8, inclusive, and the core curriculum areas of English
35 and language arts, mathematics, and science for grades 9 to 11,
36 inclusive.

37 (d) The State Board of Education is hereby authorized to
38 designate the achievement test to be administered pursuant to this
39 article for more than one academic year subject to the availability
40 of funds.

(e) The board shall minimize, to the extent it deems feasible, the amount of testing time required by the assessment in subdivision (b) for those content areas for which there also exists a standards-based examination as provided for pursuant to Section 60642.5.

(f) This section shall become operative on July 1, 2004.

~~SEC. 21.~~

SEC. 22. Section 60642.5 of the Education Code is amended to read:

60642.5. (a) The Superintendent of Public Instruction, with approval of the State Board of Education, shall provide for the development of an assessment instrument, to be called the California Standards Tests, that measures the degree to which pupils are achieving the academically rigorous content standards and performance standards, to the extent standards have been adopted by the State Board of Education. This standards-based achievement test shall contain the subject areas specified in subdivision (c) of Section 60603 for grades 2 to 8, inclusive, and shall include an assessment in history/social science in at least one elementary or middle school grade level selected by the State Board of Education and science in at least one elementary or middle school grade level selected by the State Board of Education, and the core curriculum areas specified in subdivision (e) of Section 60603 for grades 9 to 11, inclusive, except that history-social science shall not be included in the grade 9 assessment unless the State Board of Education adopts academic content standards for a grade 9 history-social science course, and shall include, at a minimum, a direct writing assessment once in elementary school and once in middle or junior high school and other items of applied academic skill if deemed valid and reliable and if resources are made available for their use.

(b) In approving a contract for the development or administration of the California Standards Tests, the State Board of Education shall consider each of the following criteria:

(1) The ability of the contractor to produce valid, reliable individual pupil scores.

(2) The ability of the contractor to report results pursuant to subdivision (a) of Section 60643 by August 8.

(3) The ability of the contractor to ensure alignment between the standards-based achievement test and the academically

1 rigorous content and performance standards as those standards are
2 adopted by the State Board of Education. This criterion shall
3 include the ability of the contractor to implement a process to
4 establish and maintain alignment between the test items and the
5 standards.

6 (4) The per pupil cost estimates of developing, and, if
7 appropriate, administering the proposed assessment with a system
8 to facilitate the determination of future per pupil cost
9 determinations.

10 (5) The contractor's procedures to ensuring the security and
11 integrity of test questions and materials.

12 (6) The contractor's experience in successfully conducting
13 testing programs adopted and administered by other states. For
14 experience to be considered, the number of grades and pupils
15 tested shall be provided.

16 (c) The standards-based achievement tests may use items from
17 other tests including items from the achievement test designated
18 pursuant to Section 60642.

19 (d) This section shall become inoperative on July 1, 2004, and,
20 as of January 1, 2005, is repealed, unless a later enacted statute,
21 that becomes operative on or before January 1, 2005, deletes or
22 extends the dates on which it becomes inoperative and is repealed.

23 ~~SEC. 22.~~

24 *SEC. 23.* Section 60642.5 is added to the Education Code, to
25 read:

26 60642.5. (a) The Superintendent of Public Instruction, with
27 approval of the State Board of Education, shall provide for the
28 development of an assessment instrument, to be called the
29 California Standards Tests, that measures the degree to which
30 pupils are achieving the academically rigorous content standards
31 and performance standards, to the extent standards have been
32 adopted by the State Board of Education. This standards-based
33 achievement test shall contain the subject areas specified in
34 subdivision (c) of Section 60603 for grades 3 to 8, inclusive, and
35 shall include an assessment in history/social science in at least one
36 elementary or middle school grade level selected by the State
37 Board of Education and science in at least one elementary or
38 middle school grade level selected by the State Board of
39 Education, and the core curriculum areas specified in subdivision
40 (e) of Section 60603 for grades 9 to 11, inclusive, except that

1 history/social science shall not be included in the grade 9
2 assessment unless the State Board of Education adopts academic
3 content standards for a grade 9 history/social science course, and
4 shall include, at a minimum, a direct writing assessment once in
5 elementary school and once in middle or junior high school and
6 other items of applied academic skill if deemed valid and reliable
7 and if resources are made available for their use.

8 (b) In approving a contract for the development or
9 administration of the California Standards Tests, the State Board
10 of Education shall consider each of the following criteria:

11 (1) The ability of the contractor to produce valid, reliable
12 individual pupil scores.

13 (2) The ability of the contractor to report results pursuant to
14 subdivision (a) of Section 60643 by August 8.

15 (3) The ability of the contractor to ensure alignment between
16 the standards-based achievement test and the academically
17 rigorous content and performance standards as those standards are
18 adopted by the State Board of Education. This criterion shall
19 include the ability of the contractor to implement a process to
20 establish and maintain alignment between the test items and the
21 standards.

22 (4) The per pupil cost estimates of developing, and, if
23 appropriate, administering the proposed assessment with a system
24 to facilitate the determination of future per pupil cost
25 determinations.

26 (5) The contractor's procedures to ensuring the security and
27 integrity of test questions and materials.

28 (6) The contractor's experience in successfully conducting
29 testing programs adopted and administered by other states. For
30 experience to be considered, the number of grades and pupils
31 tested shall be provided.

32 (c) The standards-based achievement tests may use items from
33 other tests including items from the achievement test designated
34 pursuant to Section 60642.

35 (d) This section shall become operative on July 1, 2004.

36 ~~SEC. 23.~~

37 *SEC. 24.* Section 60643 of the Education Code is amended to
38 read:

39 60643. (a) To be eligible for consideration under Section
40 60642 or 60642.5 by the State Board of Education, test publishers

1 shall agree in writing each year to meet the following
2 requirements, as applicable, if selected:

3 (1) Enter into an agreement, pursuant to subdivision (e) or (f),
4 with the State Department of Education by October 15.

5 (2) With respect to selection under Section 60642.5, align the
6 standards-based achievement test provided for in Section 60642.5
7 to the academically rigorous content and performance standards
8 adopted by the State Board of Education.

9 (3) Comply with subdivisions (c) and (d) of Section 60645.

10 (4) Provide valid and reliable individual pupil scores only in
11 the content areas specified in subdivision (c) of Section 60642 to
12 parents or guardians, teachers, and school administrators.

13 (5) Provide valid and reliable aggregate scores only in the
14 content areas specified in subdivision (c) of Section 60642 to
15 school districts and county ~~boards~~ *offices* of education in all of the
16 following forms and formats:

17 (A) Grade level.

18 (B) School level.

19 (C) District level.

20 (D) Countywide.

21 (E) Statewide.

22 (F) Comparison of statewide scores relative to other states.

23 (6) Provide disaggregated scores, based on
24 limited-English-proficient status and
25 nonlimited-English-proficient status. For purposes of this section,
26 pupils with “nonlimited-English-proficient status” shall include
27 the total of those pupils who are English-only pupils,
28 fluent-English-proficient pupils, and redesignated
29 fluent-English-proficient pupils. These scores shall be provided to
30 school districts and county ~~boards~~ *offices* of education in the same
31 forms and formats listed in paragraph (5).

32 (7) Provide disaggregated scores by pupil gender and provide
33 disaggregated scores based on whether pupils are economically
34 disadvantaged or not. These disaggregated scores shall be in the
35 same forms and formats as listed in paragraph (5). In any one year,
36 the disaggregation shall entail information already being collected
37 by school districts, county offices of education, or charter schools.

38 (8) Provide disaggregated scores for pupils who have
39 individualized education programs and have enrolled in special
40 education, to the extent required by federal law. These scores shall

1 be provided in the same forms and formats listed in paragraph (5).
2 This section may not be construed to exclude the scores of special
3 education pupils from any state or federal accountability system.

4 (9) Provide information listed in paragraphs (5), (6), (7), and
5 (8) to the State Board of Education and the State Department of
6 Education in the medium requested by each entity, respectively.

7 (b) It is the intent of the Legislature that the publisher work
8 with the Superintendent of Public Instruction and the State Board
9 of Education in developing a methodology to disaggregate
10 statewide scores as required in paragraphs (6) and (7) of
11 subdivision (a), and in determining which variable indicated on the
12 STAR testing document shall serve as a proxy for “economically
13 disadvantaged” status pursuant to paragraph (7).

14 (c) Access to any information about individual pupils or their
15 families shall be granted to the publisher only for purposes of
16 correctly associating test results with the pupils who produced
17 those results or for reporting and disaggregating test results as
18 required by this section. School districts are prohibited from
19 excluding a pupil from the test if a parent or parents decline to
20 disclose income. This chapter does not abridge or deny rights to
21 confidentiality contained in the Family Educational Rights and
22 Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable
23 provisions of state and federal law that protect the confidentiality
24 of information collected by educational institutions.

25 (d) Notwithstanding any other provision of law, the publisher
26 of the achievement test designated pursuant to Section 60642, the
27 publisher of the standards-based achievement test provided for in
28 Section 60642.5, or any contractor under subdivision (f) shall
29 comply with all of the conditions and requirements enumerated in
30 subdivision (a), as applicable, to the satisfaction of the State Board
31 of Education.

32 (e) (1) A publisher may not provide a test described in Section
33 60642, 60642.5, or 60650 or in subdivision (f) of Section 60640
34 for use in California public schools unless the publisher enters into
35 a written contract with the State Department of Education as set
36 forth in this subdivision.

37 (2) The State Department of Education shall develop, and the
38 State Board of Education shall approve, a contract to be entered
39 into with any publisher pursuant to paragraph (1). The department
40 may develop the contract through negotiations with the publisher.

1 (3) For purposes of the contracts authorized pursuant to this
2 subdivision, the State Department of Education is exempt from the
3 requirements of Part 2 (commencing with Section 10100) of
4 Division 2 of the Public Contract Code and from the requirements
5 of Article 6 (commencing with Section 999) of Chapter 6 of
6 Division 4 of the Military and Veterans Code.

7 (4) The contracts shall include provisions for progress
8 payments to the publisher for work performed or costs incurred in
9 the performance of the contract. Not less than 10 percent of the
10 amount budgeted for each separate and distinct component task
11 provided for in each contract shall be withheld pending final
12 completion of all component tasks by that publisher. The total
13 amount withheld pending final completion shall not exceed 10
14 percent of the total contract price.

15 (5) The contracts shall require liquidated damages to be paid by
16 the publisher in the amount of up to 10 percent of the total cost of
17 the contract for any component task that the publisher through its
18 own fault or that of its subcontractors fails to substantially perform
19 by the date specified in the agreement.

20 (6) The contracts shall establish the process and criteria by
21 which the successful completion of each component task shall be
22 recommended by the State Department of Education and approved
23 by the State Board of Education.

24 (7) The publishers shall submit, as part of the contract
25 negotiation process, a proposed budget and invoice schedule, that
26 includes a detailed listing of the costs for each component task and
27 the expected date of the invoice for each completed component
28 task.

29 (8) The contracts shall specify the following component tasks,
30 as applicable, that are separate and distinct:

31 (A) Development of new tests or test items as required by
32 paragraph (2) of subdivision (a).

33 (B) Test materials production or publication.

34 (C) Delivery of test materials to school districts.

35 (D) Test processing, scoring, and analyses.

36 (E) Reporting of test results to the school districts, including,
37 but not limited to, all reports specified in this section.

38 (F) Reporting of test results to the State Department of
39 Education, including, but not limited to, the electronic files
40 required pursuant to this section.

1 (G) All other analyses or reports required by the
2 Superintendent of Public Instruction to meet the requirements of
3 state and federal law and set forth in the agreement.

4 (9) The contracts shall specify the specific reports and data
5 files, if any, that are to be provided to school districts by the
6 publisher and the number of copies of each report or file to be
7 provided.

8 (10) The contracts shall specify the means by which any
9 delivery date for materials to each school district shall be verified
10 by the publisher and the school district.

11 (11) School districts may negotiate a separate agreement with
12 the publisher for any additional materials or services not within the
13 contracts specified in this subdivision, including, but not limited
14 to, the administration of the tests to pupils in grade levels other
15 than grades 2 to 11, inclusive. Any separate agreement is not
16 within the scope of the contract specified in this subdivision.

17 (f) The State Department of Education, with approval of the
18 State Board of Education, may enter into a separate contract for the
19 development or administration of any test authorized pursuant to
20 this part, including, but not limited to, item development,
21 coordination of tests, assemblage of tests or test items, scoring, or
22 reporting. The liquidated damages provision set forth in paragraph
23 (5) of subdivision (e) shall apply to any contract entered into
24 pursuant to this subdivision.

25 (g) This section shall become inoperative on July 1, 2004, and,
26 as of January 1, 2005, is repealed, unless a later enacted statute,
27 that becomes operative on or before January 1, 2005, deletes or
28 extends the dates on which it becomes inoperative and is repealed.

29 ~~SEC. 24.~~

30 *SEC. 25.* Section 60643 is added to the Education Code, to
31 read:

32 60643. (a) To be eligible for consideration under Section
33 60642 or 60642.5 by the State Board of Education, test publishers
34 shall agree in writing each year to meet the following
35 requirements, as applicable, if selected:

36 (1) Enter into an agreement, pursuant to subdivision (e) or (f),
37 with the department by October 15.

38 (2) With respect to selection under Section 60642.5, align the
39 standards-based achievement test provided for in Section 60642.5

to the academically rigorous content and performance standards adopted by the State Board of Education.

(3) Comply with subdivisions (c) and (d) of Section 60645.

(4) Provide valid and reliable individual pupil scores only in the content areas specified in subdivision (c) of Section 60642 to parents or guardians, teachers, and school administrators.

(5) Provide valid and reliable aggregate scores only in the content areas specified in subdivision (c) of Section 60642 to school districts and county ~~boards~~ *offices* of education in all of the following forms and formats:

(A) Grade level.

(B) School level.

(C) District level.

(D) Countywide.

(E) Statewide.

(F) Comparison of statewide scores relative to other states.

(6) Provide disaggregated scores, based on limited-English-proficient status and nonlimited-English-proficient status. For purposes of this section, pupils with “nonlimited-English-proficient status” shall include the total of those pupils who are English-only pupils, fluent-English-proficient pupils, and redesignated fluent-English-proficient pupils. These scores shall be provided to school districts and county ~~boards~~ *offices* of education in the same forms and formats listed in paragraph (5).

(7) Provide disaggregated scores by pupil gender and provide disaggregated scores based on whether pupils are economically disadvantaged or not. These disaggregated scores shall be in the same forms and formats as listed in paragraph (5). In any one year, the disaggregation shall entail information already being collected by school districts, county offices of education, or charter schools.

(8) Provide disaggregated scores for pupils who have individualized education programs and have enrolled in special education, to the extent required by federal law. These scores shall be provided in the same forms and formats listed in paragraph (5).

This section may not be construed to exclude the scores of special education pupils from any state or federal accountability system.

(9) Provide information listed in paragraphs (5), (6), (7), and (8) to the State Board of Education and the department in the medium requested by each entity, respectively.

1 (b) It is the intent of the Legislature that the publisher work
2 with the Superintendent of Public Instruction and the State Board
3 of Education in developing a methodology to disaggregate
4 statewide scores as required in paragraphs (6) and (7) of
5 subdivision (a), and in determining which variable indicated on the
6 STAR testing document shall serve as a proxy for “economically
7 disadvantaged” status pursuant to paragraph (7).

8 (c) Access to any information about individual pupils or their
9 families shall be granted to the publisher only for purposes of
10 correctly associating test results with the pupils who produced
11 those results or for reporting and disaggregating test results as
12 required by this section. School districts are prohibited from
13 excluding a pupil from the test if a parent or parents decline to
14 disclose income. This chapter does not abridge or deny rights to
15 confidentiality contained in the Family Educational Rights and
16 Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable
17 provisions of state and federal law that protect the confidentiality
18 of information collected by educational institutions.

19 (d) Notwithstanding any other provision of law, the publisher
20 of the achievement test designated pursuant to Section 60642, the
21 publisher of the standards-based achievement test provided for in
22 Section 60642.5, or any contractor under subdivision (f) shall
23 comply with all of the conditions and requirements enumerated in
24 subdivision (a), as applicable, to the satisfaction of the State Board
25 of Education.

26 (e) (1) A publisher may not provide a test described in Section
27 60642, 60642.5, or 60650 or in subdivision (f) of Section 60640
28 for use in California public schools unless the publisher enters into
29 a written contract with the department as set forth in this
30 subdivision.

31 (2) The department shall develop, and the State Board of
32 Education shall approve, a contract to be entered into with any
33 publisher pursuant to paragraph (1). The department may develop
34 the contract through negotiations with the publisher.

35 (3) For purposes of the contracts authorized pursuant to this
36 subdivision, the department is exempt from the requirements of
37 Part 2 (commencing with Section 10100) of Division 2 of the
38 Public Contract Code and from the requirements of Article 6
39 (commencing with Section 999) of Chapter 6 of Division 4 of the
40 Military and Veterans Code.

(4) The contracts shall include provisions for progress payments to the publisher for work performed or costs incurred in the performance of the contract. Not less than 10 percent of the amount budgeted for each separate and distinct component task provided for in each contract shall be withheld pending final completion of all component tasks by that publisher. The total amount withheld pending final completion shall not exceed 10 percent of the total contract price.

(5) The contracts shall require liquidated damages to be paid by the publisher in the amount of up to 10 percent of the total cost of the contract for any component task that the publisher through its own fault or that of its subcontractors fails to substantially perform by the date specified in the agreement.

(6) The contracts shall establish the process and criteria by which the successful completion of each component task shall be recommended by the department and approved by the State Board of Education.

(7) The publishers shall submit, as part of the contract negotiation process, a proposed budget and invoice schedule, that includes a detailed listing of the costs for each component task and the expected date of the invoice for each completed component task.

(8) The contracts shall specify the following component tasks, as applicable, that are separate and distinct:

(A) Development of new tests or test items as required by paragraph (2) of subdivision (a).

(B) Test materials production or publication.

(C) Delivery of test materials to school districts.

(D) Test processing, scoring, and analyses.

(E) Reporting of test results to the school districts, including, but not limited to, all reports specified in this section.

(F) Reporting of test results to the department, including, but not limited to, the electronic files required pursuant to this section.

(G) All other analyses or reports required by the Superintendent of Public Instruction to meet the requirements of state and federal law and set forth in the agreement.

(9) The contracts shall specify the specific reports and data files, if any, that are to be provided to school districts by the publisher and the number of copies of each report or file to be provided.

(10) The contracts shall specify the means by which any delivery date for materials to each school district shall be verified by the publisher and the school district.

(11) School districts may negotiate a separate agreement with the publisher for any additional materials or services not within the contracts specified in this subdivision, including, but not limited to, the administration of the tests to pupils in grade levels other than grades 3 to 11, inclusive. Any separate agreement is not within the scope of the contract specified in this subdivision.

(f) The department, with approval of the State Board of Education, may enter into a separate contract for the development or administration of any test authorized pursuant to this part, including, but not limited to, item development, coordination of tests, assemblage of tests or test items, scoring, or reporting. The liquidated damages provision set forth in paragraph (5) of subdivision (e) shall apply to any contract entered into pursuant to this subdivision.

(g) This section shall become operative on July 1, 2004.

~~SEC. 25.—~~

SEC. 26. Section 60643.1 of the Education Code is amended to read:

60643.1. (a) (1) Commencing in the 1999–2000 school year, and each school year thereafter, the test publisher designated by the State Board of Education pursuant to Section 60642 shall make available a reading list on the Internet by June 1. The reading list shall include an index that correlates ranges of pupil reading scores on the English language arts portion of the achievement test designated pursuant to Section 60642 to titles of materials that would be suitable for pupils in each of grades 2 to 11, inclusive, to read in order to improve their reading skills. This reading list shall include titles of books that allow a pupil to practice reading at his or her current reading level and that will assist the pupil in achieving a higher level of proficiency. To the extent possible, the index shall also include information related to the subject matter of each title. At a minimum, the reading list shall also categorize titles by subject matter and identify age-appropriate distinctions in the list.

(2) Commencing in the 1999–2000 school year, and each school year thereafter, the test publisher shall make available, for purchase by school districts, a report that provides a numerical

1 distribution of the reading scores of all pupils in California who
2 took the achievement test designated pursuant to Section 60642.

3 (3) Commencing in the 1999–2000 school year, and each
4 school year thereafter, the test publisher shall make available, for
5 purchase by school districts, reading lists that can be distributed to
6 pupils based on a pupil’s age and the ranges of scores on the
7 English language arts portion of the achievement test designated
8 pursuant to Section 60642.

9 (4) The requirements of this subdivision shall only become
10 operative upon a determination by the Director of Finance that
11 funds are available to make an adjustment pursuant to subdivision
12 (h) of Section 60640.

13 (b) The State Board of Education and the Superintendent of
14 Public Instruction shall jointly certify that the process used by the
15 publisher to determine the reading levels of the corresponding
16 reading list pursuant to paragraph (1) of subdivision (a) meets the
17 following criteria:

18 (1) The process is educationally valid.

19 (2) The process results in a reading list for each reading span
20 that provides titles at the pupil’s current reading level and the next
21 higher level for challenging practice.

22 (3) The process results in a selection from the universe of titles
23 from the list developed pursuant to subdivision (d) that matches
24 each reading level.

25 (4) The process is unbiased in the selection of publishers’ titles
26 from the legal compliance list.

27 (c) The titles listed at each reading level range posted on the
28 Internet and the reading lists made available to school districts
29 pursuant to subdivision (a) shall, at a minimum, include all
30 relevant literature materials approved as of September 1, 1999, as
31 being legally compliant pursuant to Article 3 (commencing with
32 Section 60040) of Chapter 1, and the titles listed in all of the
33 content area reading and literature lists that are developed and
34 published by the State Department of Education and that have been
35 determined by the department to meet the relevant reading level
36 as certified pursuant to subdivision (b).

37 (d) By imposing the requirements of this section on publishers,
38 it is not the intent of the Legislature to unfairly disadvantage any
39 publisher who has otherwise met the requirements of this section

1 or of Article 3 (commencing with Section 60040) of Chapter 1 of
2 Part 33.

3 (e) This section shall become inoperative on July 1, 2004, and,
4 as of January 1, 2005, is repealed, unless a later enacted statute,
5 that becomes operative on or before January 1, 2005, deletes or
6 extends the dates on which it becomes inoperative and is repealed.

7 ~~SEC. 26.~~—

8 *SEC. 27.* Section 60643.1 is added to the Education Code, to
9 read:

10 60643.1. (a) (1) Commencing in the 1999–2000 school
11 year, and each school year thereafter, the test publisher designated
12 by the State Board of Education pursuant to Section 60642 shall
13 make available a reading list on the Internet by June 1. The reading
14 list shall include an index that correlates ranges of pupil reading
15 scores on the English language arts portion of the achievement test
16 designated pursuant to Section 60642 to titles of materials that
17 would be suitable for pupils in each of grades 3 to 11, inclusive,
18 to read in order to improve their reading skills. This reading list
19 shall include titles of books that allow a pupil to practice reading
20 at his or her current reading level and that will assist the pupil in
21 achieving a higher level of proficiency. To the extent possible, the
22 index shall also include information related to the subject matter
23 of each title. At a minimum, the reading list shall also categorize
24 titles by subject matter and identify age-appropriate distinctions in
25 the list.

26 (2) Commencing in the 1999–2000 school year, and each
27 school year thereafter, the test publisher shall make available, for
28 purchase by school districts, a report that provides a numerical
29 distribution of the reading scores of all pupils in California who
30 took the achievement test designated pursuant to Section 60642.

31 (3) Commencing in the 1999–2000 school year, and each
32 school year thereafter, the test publisher shall make available, for
33 purchase by school districts, reading lists that can be distributed to
34 pupils based on a pupil's age and the ranges of scores on the
35 English language arts portion of the achievement test designated
36 pursuant to Section 60642.

37 (4) The requirements of this subdivision shall only become
38 operative upon a determination by the Director of Finance that
39 funds are available to make an adjustment pursuant to subdivision
40 (h) of Section 60640.



(b) The State Board of Education and the Superintendent of Public Instruction shall jointly certify that the process used by the publisher to determine the reading levels of the corresponding reading list pursuant to paragraph (1) of subdivision (a) meets the following criteria:

(1) The process is educationally valid.

(2) The process results in a reading list for each reading span that provides titles at the pupil's current reading level and the next higher level for challenging practice.

(3) The process results in a selection from the universe of titles from the list developed pursuant to subdivision (d) that matches each reading level.

(4) The process is unbiased in the selection of publishers' titles from the legal compliance list.

(c) The titles listed at each reading level range posted on the Internet and the reading lists made available to school districts pursuant to subdivision (a) shall, at a minimum, include all relevant literature materials approved as of September 1, 1999, as being legally compliant pursuant to Article 3 (commencing with Section 60040) of Chapter 1, and the titles listed in all of the content area reading and literature lists that are developed and published by the department and that have been determined by the department to meet the relevant reading level as certified pursuant to subdivision (b).

(d) By imposing the requirements of this section on publishers, it is not the intent of the Legislature to unfairly disadvantage any publisher who has otherwise met the requirements of this section or of Article 3 (commencing with Section 60040) of Chapter 1 of Part 33.

(e) This section shall become operative July 1, 2004.

~~SEC. 27.—~~

SEC. 28. Section 60851 of the Education Code is amended to read:

60851. (a) Commencing with the 2005–06 school year and each school year thereafter, each pupil completing grade 12 shall successfully pass the exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school. Funding for the administration of the exit examination shall be provided for in the annual Budget Act. The Superintendent of Public Instruction shall apportion funds appropriated for this

1 purpose to enable school districts to meet the requirements of
2 subdivisions (a), (b), (d), and (e). The State Board of Education
3 shall establish the amount of funding to be apportioned per test
4 administered, based on a review of the cost per test.

5 (b) A pupil may take the high school exit examination in grade
6 9 in the 2000–01 school year only. Each pupil shall take the high
7 school exit examination in grade 10 beginning in the 2001–02
8 school year and may take the examination during each subsequent
9 administration, until each section of the examination has been
10 passed or the pupil graduates.

11 (c) Until the 2005–06 school year, the governing board of a
12 school district may determine the role of the high school exit
13 examination in the district’s graduation requirement.

14 (d) At the parent or guardian’s request, a school principal shall
15 submit a request for a waiver of the requirement to continue
16 attempting to successfully pass the high school exit examination
17 to the governing board of the school district for a pupil with a
18 disability who has taken the high school exit examination with
19 modifications that alter what the test measures and has received the
20 equivalent of a passing score on one or both subject matter parts
21 of the high school exit examination. A governing board of a school
22 district may waive the requirement to continue attempting to
23 successfully pass one or both subject matter parts of the high
24 school exit examination for a pupil with a disability if the principal
25 certifies to the governing board of the school district that the pupil
26 has all of the following:

27 (1) An individualized education program adopted pursuant to
28 the federal Individuals with Disabilities Education Act (20 U.S.C.
29 Sec. 1400 et seq.) or a plan adopted pursuant to Section 504 of the
30 federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)) in place
31 that requires the accommodations or modifications to be provided
32 to the pupil when taking the high school exit examination.

33 (2) Sufficient high school level coursework either
34 satisfactorily completed or in progress in a high school level
35 curriculum sufficient to have attained the skills and knowledge
36 otherwise needed to pass the high school exit examination.

37 (3) An individual score report for the pupil showing that the
38 pupil has received the equivalent of a passing score on the high
39 school exit examination while using a modification that



1 fundamentally alters what the high school exit examination
2 measures as determined by the State Board of Education.

3 (e) The high school exit examination shall be offered in each
4 public school and state special school that provides instruction in
5 grades 10, 11, or 12, on the dates designated by the Superintendent
6 of Public Instruction. An exit examination may not be
7 administered on any date other than those designated by the
8 Superintendent of Public Instruction as examination days or
9 makeup days.

10 (f) The results of the high school exit examination shall be
11 provided to each pupil taking the examination within eight weeks
12 of the examination administration and in time for the pupil to take
13 any section of the examination not passed at the next
14 administration. A pupil shall take again only those parts of the
15 examination he or she has not previously passed and may not
16 retake any portion of the exam that he or she has previously passed.

17 (g) Supplemental instruction shall be provided to any pupil
18 who does not demonstrate sufficient progress toward passing the
19 high school exit examination. To the extent that school districts
20 have aligned their curriculum with the state academic content
21 standards adopted by the State Board of Education, the curriculum
22 for supplemental instruction shall reflect those standards and shall
23 be designed to assist the pupils to succeed on the high school exit
24 examination. This chapter does not require the provision of
25 supplemental services using resources that are not regularly
26 available to a school or school district, including summer school
27 instruction provided pursuant to Section 37252. In no event shall
28 any action taken as a result of this subdivision cause or require
29 reimbursement by the Commission on State Mandates. Sufficient
30 progress shall be determined on the basis of either of the following:

31 (1) The results of the assessments administered pursuant to
32 Article 4 (commencing with Section 60640) of Chapter 5 of Part
33 33 and the minimum levels of proficiency recommended by the
34 State Board of Education pursuant to Section 60648.

35 (2) The pupils' grades and other indicators of academic
36 achievement designated by the district.

37 ~~SEC. 28.~~—

38 *SEC. 29.* Section 60856 of the Education Code is amended to
39 read:

16 ~~SEC. 29.~~

18

20 Title — Lines 4 and 5.

22